

Tom L. Lewis

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FILED  
2003 AUG -8 PM 6:32  
CLERK  
DELAWARE DISTRICT COURT  
DOVER, DELAWARE

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE**

In re:	)	Chapter 11
	)	
W.R. GRACE & CO., <u>et al</u>	)	Case No. 01-01139 (JKF)
	)	(Jointly Administered)
Debtors.	)	
	)	Claim No. 00009663
	)	
	)	

**RESPONSE TO DEBTORS' SECOND OMNIBUS  
OBJECTION TO CLAIMS (NON-SUBSTANTIVE)**


On behalf of claimant, Roy McMillan, Personal Representative of the Estate of Robert McMillan (Claim No. 00009663), his attorney, Tom L. Lewis of Lewis & Slovak, P.C., objects to Debtors' Second Omnibus Objection to Claims (Non-Substantive), dated July 21, 2003, and received August 7, 2003, on the basis of improper notice and further responds as follows:

1. Claimant's claim is with respect to asbestos contamination from a Grace product in or on the property.
2. Claimant's claim is based upon the findings of the U.S. Environmental Protection Agency in its Administrative Record and supplement, test results, and other documentation, as well as information obtained from other sources, including but not limited to local and national news reports, articles and meetings.
3. Claimant consented to the production and release of supporting documentation, in the possession of the U.S. Environmental Protection Agency, to Grace and Grace's representatives at the time of submission of claim in March, 2003.
4. Claimant has attached supporting documentation, which was not available at the time the proof of claim was filed.

**RESPONSE TO DEBTORS' SECOND OMNIBUS  
OBJECTION TO CLAIMS (NON-SUBSTANTIVE)**

Respectfully submitted this 8th day of August, 2003.

Lewis & Slovak, P.C.

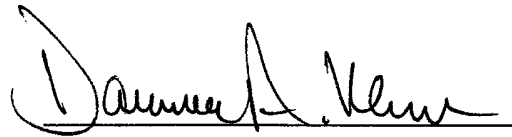
By:   
\_\_\_\_\_  
Tom L. Lewis  
P.O. Box 2325  
Great Falls, MT 59403  
(Attorneys for Claimant)

**CERTIFICATE OF SERVICE**

I hereby certify that a true and legible copy of the foregoing Response to Debtors' Second Omnibus Objection to Claims (Non-Substantive) was served on the 8th day of August, 2003, by fax and by first class mail, upon the following:

James W. Kapp III, Janet S. Baer and Christian J. Lane  
Kirkland & Ellis, LLP  
200 East Randolph Drive  
Chicago, IL 60601

Scott E. McFarland  
Pachulski, Stang, Ziehl, Young, Jones & Weintraub, P.C.  
919 North Market Street 16th Floor  
Wilmington, DE 19801

  
\_\_\_\_\_  
Daniel A. Kapp

BD- 002368

9.24.02

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 8  
999 12<sup>TH</sup> STREET, SUITE 300  
DENVER, CO 80202

## CONSENT FOR ENTRY AND ACCESS TO PROPERTY

Name: ROY & TAMMY McMILLANAddress: 1574 E 5<sup>TH</sup> ST EXTPhone: 293 6307

Address of Property for which consent for entry and access is being granted:

SAMERelationship to property: OWNER  
(i.e., owner, tenant, etc.)

I, the undersigned, am the owner, their representative, or otherwise control the real property at the location described above. The Environmental Protection Agency (EPA) has requested entry and access to my property pursuant to its response and enforcement responsibilities under the Comprehensive Environmental Response, Compensation and Liability Act as amended (Superfund), 42 U.S.C. 9601 et seq.

I consent to officers, employees, and authorized representatives of the EPA, including their authorized contractors, entering and having continued access to my property for the following purposes:

1. Visually inspecting the property, including the interior and exterior of any home or any other structures on the property;
2. the taking of such soil, bulk, or dust samples as may be determined to be necessary;
3. the taking of actions to mark or temporarily cover exposed vermiculite.

This written permission is given by me voluntarily with knowledge of my right to refuse and without threats or promises of any kind. I certify that this Consent for Entry and Access is entered into voluntarily and constitutes an unconditional consent and grant of permission for access to the property by officers, employees, and authorized representatives of EPA at reasonable times.

9-24-002  
DateRoy M. McMillan  
Signature

*Revised*

EPA Information Center  
Office Copy

BD- 002368

*DL*  
9.24.02

☐ Soil samples collected (Date: \_\_\_\_\_)

LIBBY ASBESTOS PROJECT  
Contaminant Screening Study  
Primary Structure and Property Assessment Information Field Form (IFF)

Field Logbook No.: 100134 Page No.: 41 Site Visit Date: 9.24.02  
Address: 1514 E 5TH ST EXT Structure Description: MOBILE HOME (2)  
Occupant: ROY McMILLAN Phone Number: \_\_\_\_\_  
Owner (if different than occupant): \_\_\_\_\_ Phone Number: \_\_\_\_\_  
Sampling Team: DEAN WOLANSKI / MVEKESB.COM  
Field Form Check Completed by (100% of forms): DL  
Screening Field Check Completed by (2% of forms): \_\_\_\_\_

Data Item	Value	Notes
<b>HOUSE ATTRIBUTES</b>		
Property Description	<input checked="" type="radio"/> Residential Industrial Commercial	
Surrounding Land Use	<input checked="" type="radio"/> Residential Industrial Commercial School Mining Other: _____	
Year of Construction	<u>1971</u> Unknown	
Square Footage	<u>600</u>	
Construction Material	<input checked="" type="radio"/> Wood frame Masonry/Stone Other: _____	
Number of Floors Above Ground	<input checked="" type="radio"/> 1 2 3 Other: _____	
Number of Rooms Per Floor Above Ground	1: <u>5</u> 2: _____ 3: _____ Other: _____	
Basement	Yes <input checked="" type="radio"/> No	
Heating Source	<input checked="" type="radio"/> Wood Coal Electric Propane/Gas Other: _____	
Heat Distribution	Forced air <input checked="" type="radio"/> Radiant Other: _____	

*DL*  
9.25.02

CSS INFORMATION FIELD FORM (continued)

BD# 002348

Address: 1514 E 5TH ST EXT

Data Item	Value	Notes
<b>OCCUPANT INFORMATION</b>		
Number of Adults/Employees	0 1 (2) 3 4 5-15 16-20 21-30 >30	
Number of Children	0 1 (2) 3 4 Other:	
Years at Location	<1 1-5 5-10 10-15 (>15)	29 YEARS
Was the residence/building remodeled?	Yes (No) If yes, When (years): <2 2-5 >5 Where: Attic Living Areas Garage Basement Other:	
Has resident/business purchased any Libby vermiculite materials from W.R. Grace in the past?	Yes (No)	
Has the property at this location been used for a for-profit enterprise of distributing, treating, storing, or disposing of Libby vermiculite?	Yes (No)	
Are there any known areas of exposed vermiculite?	Yes (No) If yes, Where: Ceiling Walls Floors Attic Other:	

## CSS INFORMATION FIELD FORM (continued)

BD# 002368Address: 1574 E 5TH ST EXT

Data Item	Value	Notes
<b>INDOOR ASSESSMENT</b>		
Vermiculite Insulation Past or Present	Attic: Yes No <u>NA</u> Unknown Walls: Yes <u>NA</u> NA Unknown Basement: Yes No <u>NA</u> Unknown Crawl Space: <u>Yes</u> No NA Unknown Other: _____	Visual confirmation of current presence or absence required for attic.
Evidence of Physical Damage?	Yes <u>No</u>	
Evidence of Water Damage?	Yes <u>No</u>	
<b>OUTDOOR ASSESSMENT</b>		
Libby Amphibole Sources Present	Garden: Yes No <u>NA</u> Yard: <u>Yes</u> No NA Stockpiles: Yes No <u>NA</u> Other: _____	OBSERVED VERMICULITE THROUGHOUT FRONT YARD AND (NE) AREA OF PROPERTY
Proximity to Other Properties with Potential Sources of Libby Amphiboles	Next door Within same block Other: _____ <u>Unknown</u>	

CSS INFORMATION FIELD FORM (continued)

BD# 007348

Address: 1574 E 5TH ST EXT

Data Item	Value	Notes
<b>EXPOSURE ASSESSMENT</b>		
Type and Frequency of Activity Near Vermiculite Material - Indoor	Frequency: <ul style="list-style-type: none"> <li>Once a day</li> <li>Once a week</li> <li>Once a month</li> <li>Once a year</li> <li><u>Not Applicable</u></li> </ul>	Not Applicable applies when no vermiculite is present on the property.  <b>MOBILE HOME, NO LVAI</b>
	Duration of Contact: <ul style="list-style-type: none"> <li>&lt;1 hour</li> <li>1-2 hours</li> <li>2-4 hours</li> <li>&gt;4 hours</li> <li><u>Not Applicable</u></li> </ul>	
	Extent of Contact: <ul style="list-style-type: none"> <li>Heavy</li> <li>Moderate</li> <li>Light</li> <li><u>Not Applicable</u></li> </ul>	
Type and Frequency of Activity Near Vermiculite Material - Outdoor	Frequency: <ul style="list-style-type: none"> <li><u>Once a day</u></li> <li>Once a week</li> <li>Once a month</li> <li>Once a year</li> <li>Not Applicable</li> </ul>	Not Applicable applies when no vermiculite is present on the property.  <b>VERMICULITE OBSERVED THROUGHOUT FRONT YARD</b>
	Duration of Contact: <ul style="list-style-type: none"> <li>&lt;1 hour</li> <li><u>1-2 hours</u></li> <li>2-4 hours</li> <li>&gt;4 hours</li> <li>Not Applicable</li> </ul>	
	Extent of Contact: <ul style="list-style-type: none"> <li>Heavy</li> <li><u>Moderate</u></li> <li>Light</li> <li>Not Applicable</li> </ul>	

CSS INFORMATION FIELD FORM (continued)

BD# 002368

Address: 1574 E 5TH ST EXT

Data Item	Value	Notes
<b>CONTAMINANT SCREENING STUDY ASSESSMENT</b>		
<b>Occupant Information</b>		
Is there any knowledge of former miners, close relative of miners, or any highly exposed persons living or visiting the property?	Yes <input type="radio"/> No <input checked="" type="radio"/> Unknown	
Is the resident, past or present, diagnosed with an asbestos related disease?	Yes <input type="radio"/> No <input checked="" type="radio"/> Unknown	
<b>Indoor Information</b>		
Does the interior have Zonolite attic insulation?	Yes <input type="radio"/> No <input checked="" type="radio"/> Unknown	
Did the interior ever have Zonolite attic insulation?	Yes <input type="radio"/> No <input checked="" type="radio"/> Unknown NA	NA applies if attic currently has ZAI.
Are there vermiculite additives in any of the building materials?	Yes <input type="radio"/> No <input checked="" type="radio"/> Unknown	
<b>Outdoor Information</b>		
Is there any evidence of primary source materials at or near the property?	Yes <input checked="" type="radio"/> No <input type="radio"/> Unknown	
Could this have been tracked indoors or otherwise spread outdoors on the property?	Yes <input checked="" type="radio"/> No <input type="radio"/> Unknown	
<b>Overall Assessment</b>		
Are primary source materials present at the property?	Yes <input checked="" type="radio"/> No <input type="radio"/>	
Where are primary source materials located?	Inside <input type="radio"/> Outside <input checked="" type="radio"/> Both NA	
<p>DE</p> <p>ADDITIONAL INFORMATION VERMICULITE OBSERVED THROUGHOUT FRONT YARD AREA...  OWNER STATED VERMICULITE THAT IS ON GROUND WAS USED FOR INSULATION...  THE HOUSE THAT HELD THE VERMICULITE BURNED AND WAS LEVELED ON PROPERTY</p>		

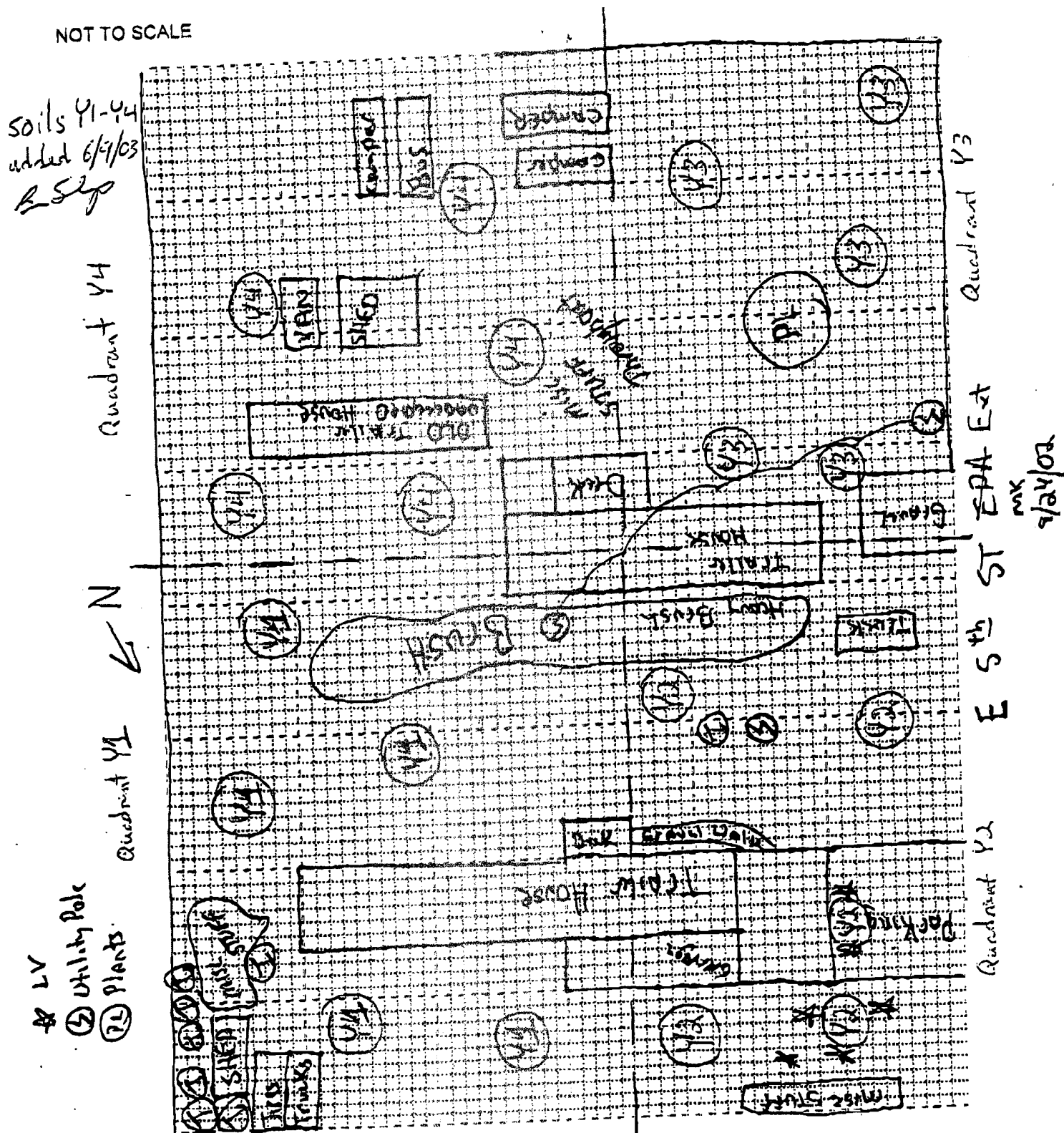


BD# 002368

Address: 1574 E 5th St Ext

**FIELD DIAGRAM OF PROPERTY**  
Identify important features (i.e. drainage, trees, gardens, structures, flowerbeds, utility poles, known underground utilities, suspected Libby amphibole source areas, sample locations, etc). Include north arrow.

NOT TO SCALE



CSS INFORMATION FIELD FORM (continued)

Address: 1574 E 5<sup>th</sup> St Ext

BD# 002368

FIELD DIAGRAM OF PRIMARY STRUCTURE

Include approximate dimensions of attic. Use more than one diagram if needed. Completed only if ZAI is present.

Scale: 1/10" = 1 foot

NO

ZAI

Present

BD# 002386

LIBBY ASBESTOS PROJECT  
Contaminant Screening Study  
Additional Information Field Form (AIFF)

Field Logbook No.: 100219 Page No.: 76-77 Site Visit Date: 6-9-03  
Address: 1574 E. 5th St Ext Structure Description: Trailer  
Occupant: Roy + Tammy McMillan Phone Number: 293-6307  
Owner (if different than occupant): \_\_\_\_\_ Phone Number: \_\_\_\_\_  
Business Name: \_\_\_\_\_  
Sampling Team: Bob Hunt - CDM Ben Shoup - PWT  
Field Form Check Completed by (100% of forms): [Signature]  
Screening Field Check Completed by (2% of forms): \_\_\_\_\_

Instructions: Pull existing residential file folder and original IFF, ensure past dust sampling FSDS, and soil sampling FSDS, are present. Conduct additional investigations as described below. If action item does not apply to the property, check item does not apply to this property.

Category and Action Trigger	Action	Notes
<b>INDOOR SAMPLING/ATTIC INSPECTION</b>		
<b>Current presence of VCI - Unknown</b> Answer to IFF question: Does the interior have VCI? = Unknown	<b>Current Status of VCI Determined:</b> <input type="checkbox"/> Yes, update existing IFF. If VCI is present, collect dust samples in living space per dust sampling protocol after reviewing existing dust sample locations. <input type="checkbox"/> No, collect dust samples in living space per dust sampling protocol after reviewing existing dust sample locations. <input checked="" type="checkbox"/> Item does not apply to this property.	
<b>Past presence of VCI - Yes</b> Answer to IFF question: Did the interior ever have VCI? = Yes	<b>Remnants of Vermiculite Visible:</b> <input type="checkbox"/> Yes, collect dust samples in living space per dust sampling protocol after reviewing existing dust sample locations. <input type="checkbox"/> No, collect dust samples in living space and attic per dust sampling protocol after reviewing existing dust sample locations. <input type="checkbox"/> Unknown, attic cannot be accessed for visual inspection. Collect dust samples in living space per dust sampling protocol after reviewing existing dust sample locations. <input checked="" type="checkbox"/> Item does not apply to this property.	

BD# 002356

McMillan, Roy.max